

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

DAVID RONALD ECKMYRE,

Petitioner,

Case Number: 2:06-CV-14178

v.

HON. VICTORIA A. ROBERTS

BLAINE LAFLER,

Respondent.

**OPINION AND ORDER DENYING PETITIONER’S “MOTION TO LIFT STAY”
AND “PETITION FOR RECONSIDERATION FOR REQUEST FOR DISCOVERY
AND REPRESENTATION BY COUNSEL”**

Petitioner David Ronald Eckmyre, presently confined at the Mid-Michigan Correctional Facility in St. Louis, Michigan, filed a *pro se* petition for a writ of habeas corpus, pursuant to 28 U.S.C. § 2254, challenging his conviction for second-degree criminal sexual conduct. Petitioner then filed a motion to stay proceedings so that he could exhaust his state court remedies. On May 19, 2008, the Court granted Petitioner’s motion, stayed the petition while instituting certain conditions under which Petitioner was required to proceed, and administratively closed the case.

The Court required Petitioner to file a motion for relief from judgment within sixty days from the date of the Court’s order staying the petition and further required Petitioner to file a motion to lift the stay and an amended petition within sixty days after the conclusion of state-court proceedings. Petitioner timely filed a motion for relief from judgment. The Michigan trial court denied Petitioner’s motion for relief from judgment on March 21, 2008. *People v. Eckmyre*, No. 03-02380-FH (Kent County Circuit Court March 21, 2008). The Michigan Court of Appeals denied his application for leave to appeal on August 14, 2008. *People v. Eckmyre*,

No. 286109 (Mich. Ct. App. Aug. 14, 2008). The Michigan Supreme Court denied his application for leave to appeal on November 25, 2008. *People v. Eckmyre*, No. 137141 (Mich. Nov. 25, 2008). Petitioner attempted to file a motion for reconsideration in the Michigan Supreme Court, but the motion was rejected as untimely. Thus, his state court proceedings concluded on November 25, 2008. Petitioner signed his motion to lift stay on February 6, 2009. The motion was not filed within sixty days are required by the Court's order granting a stay. Therefore, the Court will deny the motion.

Also before the Court is Petitioner's "Petition for Reconsideration for Request for Discovery and Representation by Counsel." Because the Court is denying Petitioner's Motion to Lift Stay and the case remains closed, this Petition for Reconsideration will be denied.

Accordingly, **IT IS ORDERED** that Petitioner's "Motion to Lift Stay" [dtk. #30] and "Petition for Reconsideration for Request for Discovery and Representation by Counsel" [dkt. #31] are **DENIED**.

S/Victoria A. Roberts
Victoria A. Roberts
United States District Judge

Dated: February 1, 2010

The undersigned certifies that a copy of this document was served on the attorneys of record and David Ronald Eckmyre by electronic means or U.S. Mail on February 1, 2010.

s/Carol A. Pinegar
Deputy Clerk